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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-985

Xanthan Gum from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: Based on affirmative final determinations by the Department of Commerce (the "Department") and the International Trade Commission ("ITC"), the Department is issuing an antidumping duty order on xanthan gum from the People's Republic of China ("PRC"). In addition, the Department is amending its final determination to correct a ministerial error.

EFFECTIVE DATE: (Insert date of publication in the *Federal Register*.)

FOR FURTHER INFORMATION CONTACT: Brandon Farlander or Erin Kearney, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S.

Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0182 or (202) 482-0167, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 4, 2013, the Department published the final determination of sales at less than fair value in the antidumping duty investigation of xanthan gum from the PRC.<sup>1</sup> On July 12, 2013, the ITC notified the Department of its final determination pursuant to section

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<sup>1</sup> See *Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013) ("*Final Determination*").

735(b)(1)(A)(ii) of the Tariff Act of 1930, as amended (“the Act”), that an industry in the United States is threatened with material injury by reason of imports of xanthan gum from the PRC.<sup>2</sup>

#### Scope of the Order

The scope of this order covers dry xanthan gum, whether or not coated or blended with other products. Further, xanthan gum is included in this order regardless of physical form, including, but not limited to, solutions, slurries, dry powders of any particle size, or unground fiber.

Xanthan gum that has been blended with other product(s) is included in this scope when the resulting mix contains 15 percent or more of xanthan gum by dry weight. Other products with which xanthan gum may be blended include, but are not limited to, sugars, minerals, and salts.

Xanthan gum is a polysaccharide produced by aerobic fermentation of *Xanthomonas campestris*. The chemical structure of the repeating pentasaccharide monomer unit consists of a backbone of two P-1,4-D-Glucose monosaccharide units, the second with a trisaccharide side chain consisting of P-D-Mannose-(1,4)- P-DGlucuronic acid-(1,2) - a-D-Mannose monosaccharide units. The terminal mannose may be pyruvylated and the internal mannose unit may be acetylated.

Merchandise covered by the scope of this order is classified in the Harmonized Tariff Schedule (“HTS”) of the United States at subheading 3913.90.20. This tariff classification is provided for convenience and customs purposes; however, the written description of the scope is dispositive.

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<sup>2</sup> See *Xanthan Gum from Austria and China*, USITC Publication 4411, Investigation Nos. 731- TA-1202-1203 (Final) (July 2013).

### Amendment to the *Final Determination*

On June 4, 2013, the Department published its affirmative final determination in this proceeding.<sup>3</sup> In accordance with 19 CFR 351.224(b), the Department disclosed to interested parties the details of its calculations for the final determination on May 30, 2013. On June 4, 2013, CP Kelco U.S. (“Petitioner”), petitioner in this investigation, and Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd.) (“Fufeng”) and Deosen Biochemical (“Deosen”), respondents in this investigation, timely submitted ministerial error allegations and requested, pursuant to 19 CFR 351.224, that the Department correct the alleged ministerial errors. On June 10, 2013, Petitioner submitted rebuttal comments to Deosen’s ministerial error allegations, and Fufeng submitted rebuttal comments to Petitioner’s ministerial error allegations. On June 11, 2013, the Department rejected Fufeng’s rebuttal comments and allowed Fufeng to re-submit its rebuttal comments, which Fufeng did on June 12, 2013.

After analyzing all interested party comments and rebuttals, we have determined that, in accordance with section 735(e) of the Act and 19 CFR 351.224(e), a ministerial error was made with respect to the treatment of the coal ash by-product in Fufeng’s margin calculation.<sup>4</sup>

In the *Final Determination*, we determined that a number of companies, in addition to the mandatory respondents, qualified for a separate rate.<sup>5</sup> Since the weighted-average dumping margin for the separate rate respondents is based on the average of the weighted-average dumping margins for the mandatory respondents, and the weighted-average dumping margin for

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<sup>3</sup> See *Final Determination*.

<sup>4</sup> For a detailed discussion of the alleged ministerial errors, as well as the Department’s analysis, see Memorandum to Paul Piquado, Assistant Secretary for Import Administration, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, regarding, “Final Determination of Antidumping Duty Investigation of Xanthan Gum from the People’s Republic of China: Allegation of Ministerial Errors,” dated June 28, 2013.

<sup>5</sup> See *Final Determination*, 78 FR at 33353.

Fufeng changed as a result of the aforementioned ministerial error, we have revised the calculation of the dumping margin for the separate rate respondents in the amended final determination. The amended dumping margins are provided, below.

#### Antidumping Duty Order

In accordance with section 735(d) of the Act, the ITC has notified the Department of its final determination in this investigation, in which it found that an industry in the United States is threatened with material injury within the meaning of section 735(b)(1)(A)(ii) of the Act. Therefore, in accordance with section 735(c)(2) of the Act, we are publishing this antidumping duty order. In accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs and Border Protection (“CBP”) to assess, upon further instruction by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise, for all relevant entries of xanthan gum from the PRC.

Pursuant to section 736(b)(2) of the Act, duties shall be assessed on subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the ITC’s notice of final determination if that determination is based on the threat of material injury, other than threat of material injury described in section 736(b)(1) of the Act.<sup>6</sup> In addition, section 736(b)(2) of the Act requires CBP to release any bond or other security, and refund any cash deposit made of estimated antidumping duties posted since the Department’s preliminary antidumping duty determination.<sup>7</sup>

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<sup>6</sup> Section 736(b)(1) of the Act states that “{i}f the {ITC}, in its final determination under section 735(b), finds material injury or threat of material injury which, but for the suspension of liquidation under section 733(d)(2) would have led to a finding of material injury, then entries of the subject merchandise, the liquidation of which has been suspended under section 733(d)(2), shall be subject to the imposition of antidumping duties under section 731.”

<sup>7</sup> See *Xanthan Gum from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 77 FR 2252 (January 10, 2013) (“*Preliminary Determination*”).

### Suspension of Liquidation

Because the ITC's final determination is based on the threat of material injury and is not accompanied by a finding that injury would have resulted but for the imposition of suspension of liquidation of entries since the Department's preliminary determination, section 736(b)(2) of the Act is applicable. Therefore, the Department will instruct CBP to terminate the suspension of liquidation for entries of xanthan gum from the PRC entered, or withdrawn from warehouse, for consumption prior to the publication of the ITC's final determination and refund any cash deposits of estimated antidumping duties made between the publication of the Department's preliminary determination on January 10, 2013, and the publication of the ITC's final determination. Furthermore, we will instruct CBP to continue to suspend liquidation on all unliquidated entries of xanthan gum from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication of the ITC's notice of final determination of threat of material injury in the *Federal Register*.

Effective on the date of publication of the ITC's notice of final determination in the *Federal Register*, CBP will require, pursuant to section 736(a)(3) of the Act, at the same time as importers would normally deposit estimated duties on this subject merchandise, a cash deposit equal to the weighted-average dumping margins listed below.<sup>8</sup> The rate for the PRC-wide entity applies to all exporter and producer combinations not specifically listed.

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<sup>8</sup> See section 736(a)(3) of the Act.

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The weighted-average dumping margins are as follows:

<b>Exporter</b>	<b>Producer</b>	<b>Weighted-Average Dumping Margin (percent)</b>
Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd.)/Shandong Fufeng Fermentation Co., Ltd.	Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd.)/Shandong Fufeng Fermentation Co., Ltd.	12.90
Deosen Biochemical Ltd.	Deosen Biochemical Ltd./Deosen Biochemical (Ordos) Ltd.	128.32
A.H.A. International Co., Ltd.	Shandong Fufeng Fermentation Co., Ltd.	70.61
A.H.A. International Co., Ltd.	Deosen Biochemical Ltd.	70.61
CP Kelco (Shandong) Biological Company Limited	CP Kelco (Shandong) Biological Company Limited	70.61
Hebei Xinhe Biochemical Co. Ltd.	Hebei Xinhe Biochemical Co. Ltd.	70.61
Shanghai Smart Chemicals Co. Ltd.	Deosen Biochemical Ltd.	70.61
PRC-Wide Entity*		154.07

\* The PRC-wide entity includes Shandong Yi Lian Cosmetics Co., Ltd., Shanghai Echem Fine Chemicals Co., Ltd., Sinotrans Xiamen Logistics Co., Ltd., and Zibo Cargill HuangHelong Bioengineering Co., Ltd.

This notice constitutes the antidumping duty order with respect to xanthan gum from the PRC pursuant to section 736(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room 7043 of the main Commerce building, for copies of an updated list of antidumping duty orders currently in effect.

This order and amended final determination are published in accordance with sections 735(e), 736(a) and 777(i) of the Act, and 19 CFR 351.211 and 351.224(e).

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Paul Piquado  
Assistant Secretary  
for Import Administration

\_\_July 15, 2013\_\_\_\_\_  
Date

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